

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CP SHIPS USA LLC and CP SHIPS  
LIMITED.,

Plaintiff(s),

-against-

UTC OVERSEAS a/k/a UTC OVERSEAS  
INC.,

Defendant(s).

SUMMONS IN A CIVIL ACTION

Case No. 07 CV

07 CIV 8355

JUDGE STANTON

TO: (name and address of defendants)

UTC OVERSEAS a/k/a  
UTC OVERSEAS, INC.  
476 Broadway, Suite 5001  
New York, NY 10001

UTC OVERSEAS a/k/a  
UTC OVERSEAS, INC.  
100 Lighting Way, Suite 4000  
Secaucus, NJ 07094

UTC OVERSEAS a/k/a  
UTC OVERSEAS, INC.  
114 Seaview Drive  
Secaucus, NJ 07094

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY  
(name and address)

MAHONEY & KEANE, LLP  
111 Broadway, 10<sup>th</sup> Floor  
New York, NY 10003  
(212) 385-1422

an answer to the complaint which is served on you with this summons, within **twenty (20)** days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

SEP 25 2007

CLERK

*Marcos Quintero*

DATE

DEPUTY CLERK

JUDGE STANTON

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CP SHIPS USA LLC and CP SHIPS  
LIMITED.,

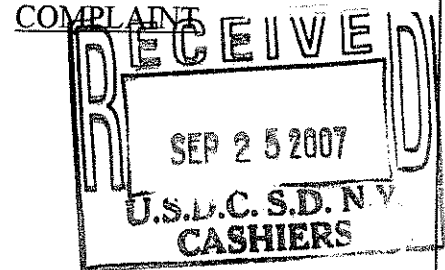
Plaintiff(s),

-against-

UTC OVERSEAS a/k/a UTC OVERSEAS  
INC.,

Defendant(s).

07 CIV 8355



PLEASE TAKE NOTICE that Plaintiff(s), CP SHIPS USA LLC and CP SHIPS LIMITED., (Collectively "CP SHIPS"), by their attorneys, MAHONEY & KEANE, LLP, as and for a Complaint against Defendant(s), UTC OVERSEAS a/k/a UTC OVERSEAS INC., ("UTC OVERSEAS"), allege, upon information and belief, as follows:

1. This is a case of admiralty and maritime jurisdiction within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. Jurisdiction is based upon 28 U.S.C. § 1333, as well as the Court's pendent, supplementary and ancillary jurisdiction.
2. Plaintiff CP SHIPS LIMITED is a legal entity duly organized and existing pursuant to the laws of a foreign country.
3. Plaintiff CP SHIPS USA LLC. is a legal entity duly organized and existing pursuant to the laws of the United States.
4. Defendant UTC OVERSEAS is a business entity organized and existing pursuant to the laws of the United States with offices and a place of business located at 476 Broadway, Suite 5001, New York, NY 10001.

5. Defendant UTC OVERSEAS is a business entity organized and existing pursuant to the laws of the United States with offices and a place of business located at 100 Lighting Way, Suite 4000, Secaucus, NJ 07094.

6. Defendant UTC OVERSEAS is a business entity organized and existing pursuant to the laws of the United States with offices and a place of business located at 114 Seaview Drive, Secaucus, NJ 07094.

7. The United States District Court for the Southern District of New York is the proper venue for this action, as Defendant UTC OVERSEAS resides and/or maintains a principal place of business in the Southern District of New York.

8. Plaintiffs sue on their own behalf and as agents and trustees on behalf of any other party who may now have or hereinafter acquire an interest in this action.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST UTC OVERSEAS

9. Plaintiff repeats and reiterates each and every allegation contained in paragraphs "1" through "8" as if specifically set forth herein at length.

10. At all times relevant herein, Defendant UTC OVERSEAS entered into agreements, service contracts, contracts of affreightment, charter agreements and/or bills of lading, with Plaintiff for the carriage, storage, handling, care and/or maintenance of Defendant's cargoes by Plaintiff in consideration for payments by Defendant to Plaintiff for said services.

11. Plaintiff duly performed all duties and obligations required to be performed by Plaintiff in connection with Defendant's goods.

12. Defendant wrongfully, willfully, negligently and/or fraudulently breached the terms of the subject agreement(s) by, *inter alia*, failing to pay freight, demurrage, detention,

port fees, tariffs and other associated costs.

13. As a result of Defendant's breach of the subject agreements and Plaintiff has incurred, and will continue to incur, costs and expenses for which Defendant is liable under the terms of the agreements and at law.

14. Plaintiff has placed Defendant on notice of its claim that Defendant has breached the subject agreements and violated Plaintiff's rights under the law.

15. Despite Plaintiff's repeated demands, Defendant has failed to pay the Plaintiff's damages due and owing under the agreements and at law.

16. By reason of the foregoing, Plaintiff has sustained damages in the amount of \$5,792.00, together with interest, costs, fees, and expenses.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST UTC OVERSEAS

17. Plaintiff repeats and reiterates each and every allegation contained in paragraphs "1" through "16" as if specifically set forth herein at length.

18. Defendant has an account stated with the Plaintiff.

19. By reason of the foregoing, Plaintiff has sustained damages in the amount of \$5,792.00, together with interest, costs, fees, and expenses.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST UTC OVERSEAS

20. Plaintiff repeat and reiterate each and every allegation contained in paragraphs "1" through "19" as if specifically set forth herein at length.

21. Plaintiff is due from Defendant the quantum meruit of Plaintiff's services.

WHEREFORE, Plaintiff prays:

(A). that judgment be entered in favor of Plaintiff for an amount exceeding **five thousand seven hundred ninety-two dollars \$5,792.00**, plus interest, fees, including attorneys' fees, costs, and disbursements;

(B). that Court process be issued against the Defendant; and

(C). that Plaintiff be granted such other and further relief as the Court may deem just and proper.

Dated: New York, New York

September 21, 2007

MAHONEY & KEANE, LLP  
Attorneys for Plaintiffs  
CP SHIPS USA LLC and CP SHIPS LIMITED

By: 

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New York, New York 10006  
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Our File No. 12/3471/B/07/9

SERVICE LIST

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